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THE WHITE HOUSE
WASHINGTON

CABINET AFFAIRS STAFFING MEMORANDUM

Date: 5/21/84 **Number:** 168992CA **Due By:** ----------------

Subject: Cabinet Council on Economic Affairs - Tuesday, May 22, 1984
8:45 a.m. - Roosevelt Room TOPICS: OECD; Pension Policy; Financial Inst. Dereg.

	Action	FYI
ALL CABINET MEMBERS	☐	☐
Vice President	☑	☐
State	☑	☐
Treasury	☑	☐
Defense	☑	☐
Attorney General	☐	☑
Interior	☐	☑
Agriculture	☑	☐
Commerce	☑	☐
Labor	☑	☐
HHS	☐	☑
HUD	☑	☐
Transportation	☑	☐
Energy	☐	☑
Education	☐	☑
Counsellor	☑	☐
OMB	☑	☐
CIA	☐	☑
UN	☐	☑
USTR	☑	☐
GSA	☐	☐
EPA	☐	☐
OPM	☐	☐
VA	☐	☐
SBA	☐	☐

	Action	FYI
CEA	☑	☐
CEQ	☐	☐
OSTP	☐	☐
Baker	☑	☐
Deaver	☐	☑
Darman *(For WH Staffing)*	☑	☐
Jenkins	☐	☑
Mc Farlane	☐	☑
Svahn	☑	☐
CCCT/Gunn	☐	☐
CCEA/Porter	☑	☐
CCFA/	☐	☐
CCHR/Simmons	☐	☐
CCLP/Uhlmann	☐	☐
CCMA/Bledsoe	☐	☐
CCNRE/	☐	☐

REMARKS: The Cabinet Council on Economic Affairs will meet Tuesday, May 22, 1984 at 8:45 a.m. in the Roosevelt Room.

The Agenda and briefing papers are attached.

DCI EXEC REG

RETURN TO:

☐ Craig L. Fuller
Assistant to the President
for Cabinet Affairs
456-2823

☐ Katherine Anderson
☑ Tom Gibson

☐ Don Clarey
☐ Larry Herbolsheimer

Associate Director
Office of Cabinet Affairs
456-2800

L-300B

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THE WHITE HOUSE

WASHINGTON

May 21, 1984

MEMORANDUM FOR THE CABINET COUNCIL ON ECONOMIC AFFAIRS

FROM: ROGER B. PORTER RBP

SUBJECT: Agenda and Papers for the May 22 Meeting

The agenda and papers for the May 22 meeting of the Cabinet Council on Economic Affairs are attached. The meeting is scheduled for 8:45 a.m. in the Roosevelt Room.

The first agenda item is a review of the status of financial institution deregulation legislation in the Senate Banking Committee. A memorandum from the Working Group on Financial Institutions Reform outlining the principal elements of legislation for markup by the Senate Banking Committee is attached.

The second agenda item is a brief report on the OECD Ministerial held last Thursday and Friday in Paris. No paper will be distributed on this agenda item in advance of the meeting.

The third agenda item concerns the Administration's policy for the reversion of surplus assets from terminated pension plans. A statement of policy developed by the Department of Labor, the Pension Benefit Guaranty Corporation and the Department of the Treasury working with the Working Group on Pension Policy is attached. This was last considered by the Cabinet Council on March 15 and represents a refinement of our proposed policy on this issue.

Attachments

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THE WHITE HOUSE

WASHINGTON

CABINET COUNCIL ON ECONOMIC AFFAIRS

May 22, 1984

8:45 a.m.

Roosevelt Room

AGENDA

1. OECD Ministerial Meeting Report (CM # 470) (No paper in advance)
2. Financial Institution Deregulation Act (CM # 149)
3. Reversion of Assets from Terminated Pension Plans (CM # 112)

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ASSISTANT SECRETARY

DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20220

May 21, 1984

MEMORANDUM FOR CABINET COUNCIL ON ECONOMIC AFFAIRS

FROM: Thomas J. Healey T

SUBJECT: Progress Report on Financial Institutions Deregulation Legislation in the Senate Banking Committee

Efforts to develop a consensus on a slimmed down Garn Bill that could be marked up by the Senate Banking Committee are now focused on legislation that would:

- Provide a new definition of a bank for purposes of the Bank Holding Company Act which closes the nonbank bank loophole. The definition would be based on whether an institution was Federally insured, but there is some consideration of including non-insured entities such as credit card issuers to give them access to the payments mechanism.

- Simplify procedures for the establishment of a holding company.

- Establish what depository institution activities will be grandfathered if not approved by this legislation.

- Determine which activities the Federal Reserve can authorize for holding companies in the future based on their being "closely related" to banking. However, the Administration proposal that new activities be "of a financial nature" rather than more tightly defined as "closely related" to banking is still being discussed.

- Establish new and deregulated procedures at the Federal Reserve for allowing bank holding companies into these new areas.

- Authorize bank holding companies to underwrite and deal in municipal revenue bonds, mortgage backed securities, operate mutual funds and engage in discount brokerage. The authorization to operate mutual funds, however, is not as firmly settled as the other parts of the authorization.

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- Restrict state chartered banks that are members of holding companies to offering outside their home states only the services permitted under the Bank Holding Company Act. This goes beyond closing the so-called South Dakota loop-hole, which would permit state banks to offer insurance services outside but not inside the state.

- Provide for the establishment of "qualified thrift lenders" (QTLs). These would be thrift institutions devoted primarily to housing finance that could be owned by any organization. The principal features of QTLs are still being debated.

- Permit passive real estate investment. At the moment brokerage of real estate is still under debate.

- Not authorize any form of insurance powers for depository institution holding companies.

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FINAL VERSION
5/14/84

TREASURY, DOL AND PBGC JOINT STATEMENT OF POLICY

The following policy has been adopted by the Department of the Treasury, the Department of Labor and the Pension Benefit Guaranty Corporation to provide guidelines for processing defined benefit pension plan terminations involving asset reversions to the plan sponsor.

1. In accordance with current law, when an employer terminates a defined benefit pension plan, it may not recover any surplus assets until it has fully vested all participants' benefits and has purchased and distributed annuity contracts, to protect participants against the risk that their accrued benefits may be jeopardized by future market fluctuations or other factors.

2. At present, upon plan termination, employers can make lump sum payments to certain participants. In some cases, these lump sums have been calculated on the basis of interest rates that are higher than those available to individuals, thereby reducing the value of those benefits. This problem must be addressed. If employees are offered lump sum payments in lieu of future pensions, the amount of the lump sum must fairly reflect the value of the pension to the individual. The Pension Benefit Guaranty Corporation is developing guidelines for determining appropriate lump sum values.

3. An employer that terminates a sufficient defined benefit pension plan may establish a new defined benefit plan covering the same group of employees. The new plan may grant past service credit for the period during which an employee was covered by the terminated plan (subject to the limitations of Section 415 of the Internal Revenue Code). The prior plan and the new plan, in combination, may provide benefits for each participant equivalent to those to which the participant would have been entitled if the prior plan had continued without interruption. The PBGC will clarify the fact that a successor plan is exempt from the five year phase-in of benefit guarantees that applies to newly established plans. The above is one example of what will be deemed a successor plan by the PBGC.

4. In the case of a so-called "spin-off/termination", generally no termination will be recognized and any attempt to recover surplus assets will be treated as a diversion of assets for a purpose other than the exclusive benefit of employees and beneficiaries unless the following conditions are satisfied:

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* The benefits of all employees (including those covered by the ongoing plan) must be fully vested and non-forfeitable as of the date of termination.

* All benefits accrued as of the date of termination in the ongoing plan must be provided for by the purchase of annuity contracts which represent irrevocable commitments for the benefit of each individual participant.

* All employees who were covered by the original plan must be given advance notice of the transaction in similar time and manner as if the entire original plan were being terminated.

5. In the case of a so-called "spin-off/termination" and a so-called "termination/re-establishment" transaction, generally any attempt to recover surplus assets will be treated as a diversion of assets for a purpose other than the exclusive benefit of employees and beneficiaries unless the following conditions are satisfied:

(a) In the case of an ongoing plan described in number 4 above, the funding method for the ongoing plan must be changed on the date of termination by combining and off-setting amortization bases in accordance with §412(b)(4) of the Code. The amortization period for this base will be the lesser of the combined amortization period and the weighted average future remaining working lifetime of all covered employees. The employer must request and obtain IRS approval for this change in funding method.

(b) In the case of a new plan established with credit for past service as described in number 3 above, in order to obtain a reversion of surplus assets from the terminated plan, the future amortization period for the unfunded past service liability for the new plan, under Section 412 of the Code, will be the lesser of 30 years and the weighted average future remaining working lifetime of all covered employees. The employer must request and obtain IRS approval for this change in funding method for the new plan.

The agencies' analysis indicates that, in spinoff/terminations where the conditions in numbers 4 and 5a are satisfied, the security of participants' benefits is protected by the purchase and distribution of annuities, the statutory minimum funding rules, including the rules described in number 5(a), and PBGC insurance coverage.

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6. Employers are reminded that one of the requirements for plan qualification is that the plan be intended to be permanent. In any case, the funding rules generally require that plan funding be on a going-concern basis rather than on a termination basis. Thus, the tax consequences of multiple "termination/re-establishments" or "spin-off/terminations" are unaffected by this policy statement and will be determined without regard to whether the specific guidelines described above are satisfied with regard to each of the transactions. Generally, an employer may not engage in either a termination/re-establishment or spin-off/termination transaction, involving reversion of assets, any earlier than 15 years following any such transaction.

7. The federal income tax consequences of the receipt of reversions, of deductions for contributions to ongoing or successor plans and of the funding of such plans, after the change in funding method, are unaffected by this policy statement.

8. The PBGC will continue to process and the IRS will now proceed to process all pending termination cases.

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